

REMARKS

The Office Action dated January 30, 2004 has been reviewed and carefully considered. Claims 1-6 remain pending in this application, of which the independent claim is 1. Reconsideration of the application in view of the following remarks is respectfully requested.

Claims 1-5 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 4,961,177 to Uehara in view of Japanese Patent JP 411249227A to Shirai et al. ("Shirai") and German Patent DE 4028670 A1 to Schaffrina.

As acknowledged in item 1 of the Office Action, Uehara fails to disclose or suggest:

An electronic apparatus (1) . . . including halting means (3) to which the speech signal input means (4) are mechanically connected, . . . characterized in that . . . picture recording means (31) are provided which are mechanically connected to the halting means . . . consequently, the connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY).

Uehara further fails to disclose or suggest:

. . . picture evaluation means (33) are provided by which can be established whether the recorded body area lies within a nominal range (XY) and in that in the event of deviations of the position of the recorded body area relative to the nominal range (XY) the adjusting means (28) are provided for adjusting the halting means (3) and, consequently, the connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY).

Item 1 of the Office Action suggests that the above, latter-quoted limitation of claim 1 is disclosed in between line 41 of column 2 and line 11 of column 3 in Uehara.

This passage, however, merely mentions that the Uehara servomechanism 14 points the microphone 12 somewhere within a range (col. 2, line 47: “range”) that spans all possible microphone directions. There is no disclosure or suggestion of “in the event of deviations . . . relative to the nominal range (XY) . . . adjusting . . . to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY)” as explicitly required by the language of claim 1.

Shirai merely moves a camera fixing section 72 to deliver the uppermost point of the user’s image to an “object set position” (abstract, last sentence: “object set position”).

The Schaffrina user panel is manually manipulated by the user “to suit the user.”

In view of the above, Shirai and Schaffrina, alone or in combination, cannot make up for the deficiencies in Uehara.

In particular, the proposed combination of prior art references fails to disclose, suggest or feature:

. . . picture evaluation means (33) are provided by which can be established whether the recorded body area lies within a nominal range (XY) and in that in the event of deviations of the position of the recorded body area relative to the nominal range (XY) the adjusting means (28) are provided for adjusting the halting means (3) and, consequently, the

connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY)

as explicitly required by the language of claim 1.

For at least this reason, the proposed combination of prior art references fails to render obvious the invention as recited in claim 1.

Moreover, the Uehara apparatus is configured to interface with a speaking person without requiring the person to use his or her hands (col. 5, lines 20-22: "even when both hands are occupied, easy entry of an ID number or any other information can be achieved by speaking"; FIG. 1 (no keyboard or keypad); FIG. 2). The system functions automatically with the only user intervention being speech (col. 4, line 29 – col. 5, line 4).

Item 1 of the Office Action says, in effect, that the Shirai automatic adjusting of a camera vertically would have suggested a similar automatic vertical adjustment to the camera 22 in FIG. 2 of Uehara, but acknowledges that the combination would still not feature vertical movement of the Uehara microphone 12. To make up for the deficit, Schaffrina is cited, which is directed to a video telephone box having a user panel including a screen and video camera. A microphone is located on either side of the screen. The height of the user panel may be adjusted to suit the user. The user panel allows inputs in the form of push button selections. It is clear from this description and the drawing that the user panel is manually adjusted by the user to match his or her height. By contrast, and as mentioned above, Uehara deals with a system that operates

automatically without user intervention other than speech. It is not clear how Schaffrina can be fairly said to teach detachment of the Uehara microphone 12 from its tilting servo mechanism and movement of the detached microphone into fixed connection with the movable camera.

Uehara, in fact, teaches away from the idea of modifying its microphone configuration. Although Uehara recognizes the voice recognition is a developing area (col. 1, lines 50-52), and that its voice recognition technology may require the speaker to repeat words and to enunciate more slowly (col. 4, lines 53-56), Uehara reveals not the slightest hint that its microphone 12 of sharp directivity is other than optimal (col. 3, lines 41-43: "Control of the direction of the microphone 12, is one of the distinctive features of the present apparatus"; col. 5, lines 11-20: "According to the present apparatus, the microphone 12 with a sharp directivity can be effectively directed toward the mouth of the person C, thereby resulting in reliable collection of the speech made by the person at a high S/N ratio. The sharply directional microphone 12 used herewith can be provided at a distance from the person C without any loss in S/N ratio. Consequently, the person can speak unaffected by the presence of the microphone 12, and the person will not feel that he is forced to speak to the system.")

Item 5 of the Office Action suggests that the latter sentence in Uehara would have motivated the skilled practitioner to place the microphone "on either side" (Schaffrina, abstract) of the screen in view of Schaffrina, so that the user would not feel he or she is being tracked. However, as the user approaches the mechanism, the

mechanism will track them, whether it is a vertical movement of the proposed combination or of the Uehara/Shirai tilting movement.

In contrast to Uehara's touting of the optimality of its microphone configuration, Schaffrina suggests that its microphones are located "on either side" of the screen, a camera is concealed behind the screen ("Detailed Description"; sixth paragraph), and the height of the user panel embodying the screen may be adjusted by user to suit the user. Since the camera is concealed, presumably then the user either adjusts the panel's vertical location so that either the screen is in optimal visual range, i.e., vertically centered about the user's face, or so that the microphone is in optimal vocal range, i.e., vertically aligned with the user's mouth, or, alternatively, reach some compromise between the two panel positions. The user cannot achieve both optimizations simultaneously, because this would place the microphone at the bottom the screen, whereas Schaffrina specifies that the microphone is disposed "on either side" of the screen. It follows that Schaffrina fails to disclose or suggest that both the camera and microphone, while fixed to the same vertical translator, can be simultaneously positioned optimally. Therefore, it appears that item 1 of the Office Action is suggesting that motivation would have existed to sacrifice Uehara optimality, assuming one is not selectively ignoring Uehara's claim of optimality, by modifying Uehara or Uehara/Shirai in view of Schaffrina.

What in any of the applied prior art references, alone or in combination, would have shown, suggested or given even the slightest hint to one of ordinary skill in

the art that fixing both the camera and the microphone to the same vertical translator could be made to improve on Uehara's touted optimality?

At page 4, item 1 of the Office Action offers, by way of explanation, that "it was well-know that closer proximity of both a camera and a microphone will improve the quality of the data obtained by each device." Proximity to what? Presumably the Examiner is referring to "proximity to the subject," not to proximity between the camera and the microphone. How close is too close? That is, a microphone held too close to the speaker experiences noise. Having modified Uehara in view of Shirai, what would have motivated one of ordinary skill in the art to, in view of Schaffrina, relocate the microphone onto the same vertically movable platform as the camera? Impermissible hindsight of an Examiner who has looked at FIG. 1 and/or 2 of the present invention's disclosure.

In determining the differences between the prior art and the claims, the question under **35 U.S.C. 103** is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) MPEP 2141.02.

A prior art reference must be considered in its entirety, i.e., as a whole, including portions **that would lead away from the claimed invention**. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983) MPEP 2141.02 <bold font added for emphasis>.

Since the primary reference, Uehara, teaches away from the modification proposed, the proposed Uehara/Shirai/Schaffrina combination would not have been

obvious, and, as set forth above, would in any event not meet the limitations of claim 1.

Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. 103(a) as unpatentable over Uehara in view of Shirai, Schaffrina and “Touchscreens now offer compelling uses” by Schneiderman.

Claim 6 depends from claim 1, and Schneiderman cannot compensate for the deficiencies in Uehara. Reconsideration and withdrawal of the rejection is respectfully requested.


For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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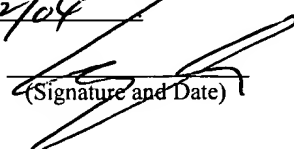
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